

**PROPOSED REGULATION OF THE
NEVADA TRANSPORTATION AUTHORITY OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

Docket No. 10-04016 (RE: Passenger Carriers)

(May 7, 2010)

EXPLANATION—Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §1, NRS 706.171 and 706.391; §2, NRS 706.171, 706.173, and 706.692; §3, NRS 706.171 and 706.321; §§3 and 9, NRS 706.171 and 706.475; §§4, 6, and 7, NRS 706.171; §5, NRS 706.171 and NRS 706.173; §§8 and 10, NRS 706.171, 706.173, and 706.475.

A REGULATION relating to motor carriers; setting forth application requirements for temporary modifications of charter limousine authority in certain circumstances; setting forth fuel surcharge rates for charter limousine carriers; adding language defining when a taxicab driver is on duty and working his shift; clarifying operating authority of charter buses; adding to the requirements for charter limousine drivers; modifying the percentage tour operators may pay as commissions or referral fees; requiring taxicab drivers to time-stamp trip sheets; adding to the requirements for taxicab drivers; clarifying that required lease provisions must appear in taxicab leases and must be complied with by the parties; clarifying that a time-stamped trip sheet must be in the possession of a taxicab driver during his shift; requiring taxicab drivers to maintain valid medical certifications in their possession while on duty; and providing other matters properly relating thereto.

Section 1. Chapter 706 of NAC is hereby amended by adding thereto a new section to read as follows:

1. For special events or conventions during which the demand for charter limousine service will exceed the availability of vehicles authorized to be operated in charter limousine service and to be leased as charter limousines, carriers authorized to provide charter

limousine service may make application for temporary modification of operating authority in order to serve the public.

2. Applications for temporary modifications of operating authority under this section shall be submitted to the Authority no later than 45 days prior to the start date of the special event or convention for which the temporary modification is sought.

3. Applications for temporary modifications of operating authority under this section shall be submitted in the form required by the Authority and shall contain the following data in the application or in exhibits attached thereto:

(a) A copy of the applicant's certificate of public convenience and necessity.

(b) The specific modification requested, the specific time period for which the modification is requested, and the resulting temporary authority.

(c) Evidence that the applicant's current fleet and allowable leased vehicles are reserved by customers during the event or convention and, once the applicant's fleet was reserved, that additional requests for service were referred to other certificated carriers.

(d) If the modification is to the geographic area granted under a certificate, a map or sketch of the route and points to be served, drawn to a suitable scale which is indicated on the map or sketch. The map or sketch must show present and proposed operations by distinctive coloring or marking.

(e) If the modification is to the number or type of vehicles allowed to operate under a certificate, the type and number of units of equipment to be used in the proposed service and evidence of the source of the units of equipment.

(f) Evidence that any changes resulting from the modification are consistent with the carrier's current tariff rates.

(g) Evidence of the qualifications and experience of the personnel who will manage and operate the proposed service and the proposed operating procedures related to service, safety, maintenance, training of drivers, billing, relations with customers, and record keeping.

(h) Evidence that the personnel, including management staff and drivers, who will be used to provide the proposed service possess the skills, training, and experience necessary to ensure the safety of the public.

(i) Evidence that the facilities which will be used to provide the proposed service are adequate to accommodate the temporary modification, such as terminals, shops, warehouses, and offices.

(j) Evidence showing that the proposed operation is or will be beneficial to the traveling public.

(k) Evidence that the applicant maintains an investment of not less than twenty percent equity capital in its operations in accordance with NAC 706.473.

(l) Additional information as is necessary for a full understanding of the application.

4. The Authority shall not grant a temporary modification in which the number of additional vehicles allowed to operate under an applicant's temporary modification would be more than one half the number of vehicles allowed to operate under his certificate.

Sec. 2. Chapter 706 of NAC is hereby amended by adding thereto a new section to read as follows:

(a) In addition to the rates outlined in his tariff on file with the Nevada Transportation Authority, a carrier authorized to provide charter service by limousine may charge and collect on an hourly basis from its passengers a fuel surcharge as outlined in this section.

(b) The base fuel prices used to determine the amount of the fuel surcharge each month will be adjusted yearly as follows:

(1) On November 30 of each year, the Authority shall set the base fuel prices for the following calendar year as the lowest of the average yearly retail fuel prices for regular and diesel fuels for the prior three years.

(2) On or about December 1 of each year, the Authority shall notify charter limousine carriers authorized to charge and collect the fuel surcharge of the base fuel prices that will be in effect the following calendar year.

(3) The average yearly retail price per gallon of regular fuel will be determined by referring to the United States Department of Energy, Energy Information Administration's survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade—West Coast (PADD 5).

(4) The average yearly retail price per gallon of diesel fuel will be determined by referring to the United States Department of Energy, Energy Information Administration's survey on Weekly Retail Gasoline and Diesel Prices, Diesel, All Types—West Coast (PADD 5).

(5) The prices can be obtained by calling the Department of Energy Fuel Hotline at (202) 586-8800 or via the Department of Energy website at <http://eia.doe.gov/>.

(c) Each calendar month, the fuel surcharge will be determined as follows:

(1) On the twenty-fifth day of each calendar month, the retail price per gallon of regular fuel will be determined by referring to the United States Department of Energy, Energy Information Administration's survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade—West Coast (PADD 5).

(2) On the twenty-fifth day of each calendar month, the retail price per gallon of diesel fuel will be determined by referring to the United States Department of Energy, Energy

Information Administration's survey on Weekly Retail Gasoline and Diesel Prices, Diesel, All Types—West Coast (PADD 5).

(3) The prices can be obtained by calling the Department of Energy Fuel Hotline at (202) 586-8800 or via the Department of Energy website at <http://eia.doe.gov/>.

(4) If the twenty-fifth day of the calendar month is on a weekend or a federal holiday, then the prices will be determined based on the prices available on the following business day.

(5) The fuel prices on the twenty-fifth of each calendar month will determine the fuel surcharge amount, pursuant to the following table, which will be applicable on the first day of the following month and remain in effect through the last day of that calendar month:

<i>When the price per gallon reported on the 25th of each month is higher than the base fuel price by:</i>	<i>The fuel surcharge amount effective the 1st day of the following month will be:</i>
<i>\$0.50 - \$0.99</i>	<i>\$1.00</i>
<i>\$1.00 – \$1.49</i>	<i>\$2.00</i>
<i>\$1.50 – \$1.99</i>	<i>\$3.00</i>
<i>\$2.00 – \$2.49</i>	<i>\$4.00</i>
<i>\$2.50 – \$2.99</i>	<i>\$5.00</i>
<i>\$3.00 – \$3.49</i>	<i>\$6.00</i>
<i>\$3.50 – \$3.99</i>	<i>\$7.00</i>
<i>\$4.00 – \$4.49</i>	<i>\$8.00</i>
<i>\$4.50 and over</i>	<i>\$9.00</i>

(d) A charter limousine carrier intending to collect the fuel surcharge shall include the fuel surcharge table and rules set forth in subsections 2 and 3 of this section in his tariff on file with the Authority.

(e) A charter limousine carrier intending to collect the fuel surcharge must annually update the base fuel prices in his tariff by their effective date of January 1 or will be prohibited from collecting the fuel surcharge until and unless the updated base fuel prices are added to his tariff.

Sec. 3. Chapter 706 of NAC is hereby amended by adding thereto a new section to read as follows:

A driver of a taxicab who is operating a taxicab shall be deemed on duty and working his shift and is subject to the provisions of NRS 706 and to the regulations adopted thereunder.

Sec. 4. NAC 706.034 is hereby amended to read as follows:

706.034 1. “Charter service by bus” means the prearranged transportation of persons who have acquired the exclusive use of a bus for a particular itinerary under a single contract and at a fixed charge for the bus, which is consistent with the tariff filed by the carrier, for the duration of the charter.

2. Except as otherwise provided in paragraph (d) of subsection 3, the term includes services sold to a broker at an hourly rate only, for resale by the broker in combination with other services or facilities not related to transportation at per capita rates or at hourly rates, as necessary. *“In combination with other services and facilities not related to transportation” means transportation resold by a purchaser or broker of transportation services for purposes of transporting passengers for a particular itinerary between definite points of origin and destination under a single contract to a location where services or facilities other than or unrelated to the transportation is provided by the purchaser or broker for its benefit or for the benefit of a third party, including, but not limited to, malls, employee shuttles, or other similar purposes or locations.*

3. The term does not include:

- (a) Scenic tours;
- (b) Special services;
- (c) Airport transfer services;
- (d) Service which will be resold by the broker for scenic tours or airport transfer services; or
- (e) The carriage of property or cargo not belonging to the group of passengers being transported.

Sec. 5. NAC 706.229 is hereby amended to read as follows:

706.229 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.1, 391.2, 391.11(a), 391.11(b)(1) to 391.11(b)(4), inclusive, 391.11(b)(6), 391.11(b)(7), 391.11(b)(8), 391.13, 391.15, 392.2, 392.3, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 40, 382, 390, 393 and 397, a certificate holder shall not allow an employee to drive a traditional limousine or livery limousine unless the employee:

(a) Is at least 21 years of age and has a valid Nevada driver's license or is a border state employee, as that term is defined in [NRS 483.035](#); and

(b) Provides to the certificate holder, on or before the date on which the employee becomes employed by the certificate holder as the driver of a traditional limousine or livery limousine:

(1) A certificate from a licensed physician which is dated not more than 90 days before the date on which the employee becomes so employed by the certificate holder and which demonstrates that the employee is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43; and

(2) A copy of the driving record of the employee which is obtained from the Department and which demonstrates that the employee has not, within the 3 years immediately preceding the date on which the employee becomes so employed by the certificate holder:

(I) Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;

(II) Been convicted of reckless driving;

(III) Been convicted of failing to stop and remain at the scene of an accident; or

(IV) Failed to keep a written promise to appear in court for any offense.

(c) Within the three years prior to his application, has not failed to appear for a hearing before the Nevada Transportation Authority resulting in the employee being found in his absence in violation of any provision of NRS 706 or of the regulations adopted thereunder.

(d) Within the three years prior to his application, has five or fewer findings against him by the Nevada Transportation Authority for violations of the provisions of NRS 706 or of the regulations adopted thereunder.

(e) Within the three years prior to his application, has not failed to timely pay any and all fine amounts assessed against him by the Nevada Transportation Authority.

2. Each employee shall update annually the documents required pursuant to paragraph (b) of subsection 1.

3. A certificate holder shall retain a copy of each document submitted by an employee pursuant to this section for at least 3 years after his employment has terminated.

Sec. 6. NAC 706.311 is hereby amended to read as follows:

706.311 1. Except as otherwise provided in NRS 706.351, an authorized carrier shall not:

(a) Charge, demand, collect or receive a greater, lesser or different compensation for the transportation of persons or property or for any service in connection therewith than the rates, fares or charges applicable to the transportation as specified in its tariffs filed and in effect at the time.

(b) Refund or remit in any manner or by any device any portion of the rates, fares or charges so specified except upon orders of the courts or the Authority or extend to the shipper or person any privilege or facility in the transportation of passengers or property except as specified in the tariffs.

(c) Submit a bid to provide services in any form or manner which is not in conformance with the certificate he holds.

(d) Use any artifice or subterfuge, or billing or accounting practice in lieu of an authorized commission. The fare or rate charged to the passenger or shipper may not be greater than or different from the fare or rate specified in the tariffs in effect at the time because of the authorized commission.

2. An authorized carrier who is a fully regulated carrier may pay a commission or referral fee to a designated agent who arranges for the provision of transportation services by the carrier. Except as otherwise provided in subsection 6, a commission or referral fee authorized pursuant to this subsection must not exceed 10 percent of the rate, fare or charge specified in the carrier's tariffs for the type of service that the designated agent has arranged for the carrier to provide.

3. A designated agent arranging or providing transportation on the vehicles of any certificated motor carrier shall not charge, demand, collect or receive a greater, lesser or different compensation for the transportation of persons or property or any service in connection therewith than the rates, fares or charges specified in the motor carrier's tariffs.

4. All tickets issued by a carrier or its designated agent must identify the charge to the passenger for the service or transportation purchased. That charge may not be different from the tariff on file with the Authority.

5. A carrier that uses or intends to use the services of a designated agent within this State shall keep a complete list of its designated agents which must be made available for review by the staff of the Authority.

6. An authorized carrier that provides scenic tours may pay a commission or referral fee of up to ~~{10}~~ 35 percent to a designated agent who arranges for the provision of scenic tours by the carrier. ~~[The commission or referral fee for off-road scenic tours must not exceed 25 percent of the rate, fare or charge specified in the tariffs of the carrier for the scenic tour that the designated agent has arranged for the carrier to provide.]~~

Sec. 7. NAC 706.3747 is hereby amended to read as follows:

706.3747 1. Except as otherwise provided in this subsection, a certificate holder shall require the driver of each taxicab that the certificate holder is authorized to operate to keep a daily trip sheet in a form prescribed by the Authority. The daily trip sheet may be kept in a different form if the certificate holder submits the alternative form to the Authority and the Authority approves that form.

2. A driver shall record on the trip sheet:

(a) At the beginning of each shift:

(1) His name;

(2) The unit number of his taxicab;

(3) *A time stamp in accordance with NAC 706.3761 indicating* [F] *t* he time at which the shift began; and

(4) The odometer reading of the taxicab.

(b) During each shift:

(1) The time, place of origin, requested destination and actual destination, if different from the requested destination, of each trip; and

(2) The number of passengers and amount of fare for each trip.

(c) At the end of each shift:

(1) *A time stamp in accordance with NAC 706.3761 indicating [F] t* he time at which his shift ended; and

(2) The odometer reading of the taxicab.

3. A certificate holder shall furnish a trip sheet form for each shift during which a taxicab is operated by a driver.

4. A driver who works for the certificate holder on commission or as an employee shall submit to the certificate holder a completed trip sheet at the end of each shift of that driver.

5. A driver who is an independent contractor shall submit to the certificate holder at the end of each week in which he worked at least one shift a completed trip sheet for each shift worked by that driver during that week.

6. A certificate holder shall retain each completed trip sheet until the end of the calendar year of the year immediately succeeding the year in which the trip sheet was completed. The certificate holder shall make such trip sheets available for inspection by the Authority upon request.

7. If the Authority determines that a taxicab is being operated without a trip sheet in violation of this section, the Authority will cause the taxicab in regard to which the violation occurred to be withdrawn from service for a minimum of 24 hours. A taxicab withdrawn from service

pursuant to this subsection must not be placed back in service until the Authority verifies that the certificate holder has furnished a trip sheet for that taxicab.

Sec. 8. NAC 706.3751 is hereby amended to read as follows:

706.3751 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 390, 393 and 397, a certificate holder shall not allow an employee or independent contractor of the certificate holder to drive a taxicab that the certificate holder is authorized to operate unless the employee or independent contractor:

(a) Is at least 21 years of age and has held for at least 30 days a valid Nevada driver's license or is a border state employee, as that term is defined in [NRS 483.035](#); and

(b) Provides to the certificate holder, on or before the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to [NRS 706.473](#):

(1) A certificate from a licensed physician which is dated not more than 90 days before the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to [NRS 706.473](#), which demonstrates that the employee or independent contractor is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43; and

(2) A copy of the driving record of the employee or independent contractor which is obtained from the Department and which demonstrates that the employee or independent contractor has not, within the 3 years immediately preceding the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to [NRS 706.473](#):

(I) Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;

(II) Been convicted of reckless driving;

(III) Been convicted of failing to stop and remain at the scene of an accident; or

(IV) Failed to keep a written promise to appear in court for any offense.

(c) Within the three years prior to his application, has not failed to appear for a hearing before the Nevada Transportation Authority resulting in the employee being found in his absence in violation of any provision of NRS 706 or of the regulations adopted thereunder.

(d) Within the three years prior to his application, has five or fewer findings against him by the Nevada Transportation Authority for violations of the provisions of NRS 706 or of the regulations adopted thereunder.

(e) Within the three years prior to his application, has not failed to timely pay any and all fine amounts assessed against him by the Nevada Transportation Authority.

2. Each employee or independent contractor shall update annually the documents required pursuant to paragraph (b) of subsection 1 and submit the updated documents to the certificate holder.

3. A certificate holder shall retain a copy of each document that the employee or independent contractor submitted to the certificate holder pursuant to this section until 3 years after the employee's employment has terminated or the independent contractor's lease has expired.

Sec. 9. NAC 706.3753 is hereby amended to read as follows:

706.3753 1. Each lease agreement entered into by a certificate holder and an independent contractor pursuant to [NRS 706.473](#) must:

(a) Be maintained by the certificate holder.

(b) Be in writing and in a form approved by the Authority.

(c) Identify the use to be made of the taxicab by the independent contractor and the consideration to be received by the certificate holder. The use to be made of the taxicab must conform to the authority granted by the certificate to operate the taxicab.

(d) Be signed by each party, or his representative, to the agreement.

(e) Specifically state that the independent contractor is subject to all laws and regulations relating to the operation of a taxicab which have been established by the Authority and other regulatory agencies and that a violation of those laws and regulations will breach the agreement.

(f) Specifically state that the certificate holder is responsible for maintaining:

(1) All required insurance associated with the taxicab and the service which is the subject of the agreement in accordance with [NAC 706.191](#);

(2) A file which contains the qualifications of the independent contractor to drive the taxicab; and

(3) A file for records concerning the maintenance of the taxicab.

(g) Specifically state that the lease agreement does not relieve the certificate holder from any of his duties or responsibilities set forth in this chapter and [chapter 706](#) of NRS.

(h) Specifically state that the taxicab provided pursuant to the lease agreement:

(1) Will be painted with the name, insigne and certificate number of the certificate holder; and

(2) Is in a good mechanical condition that will meet the requirements for operating taxicabs set forth by this State or the county or municipality in which the taxicab will be operated.

(i) Specifically state that the independent contractor shall not transfer, assign, sublease or otherwise enter into an agreement to lease the taxicab to another person.

(j) Specifically state that the independent contractor:

(1) Shall not operate the taxicab for more than 12 hours in any 24-hour period; and

(2) Shall return the taxicab to the certificate holder at the end of each shift to enable the certificate holder to comply with the provisions of [NAC 706.380](#).

(k) Contain any other provision which the Authority may determine to be necessary for the protection of the health and safety of members of the public.

2. If the Authority has reason to believe that a ***required lease*** provision of this section is being violated, the Authority may, after a hearing:

(a) Impose an administrative fine pursuant to [NRS 706.771](#);

(b) Order the certificate holder or the independent contractor to cease and desist from action taken in violation of this section; or

(c) Revoke or suspend the authority of the certificate holder to operate a taxicab to enter into a lease agreement pursuant to [NRS 706.473](#).

Sec. 10. NAC 706.376 is hereby amended to read as follows:

706.376 During his shift, a driver of a taxicab:

1. Shall not engage in verbal arguments or acts of physical violence.
2. Shall refrain from backing into position in any taxicab stand.
3. Shall refrain from loading passengers at any establishment where a taxicab stand has been established unless he has been through the rotation of the stand. This provision does not apply when there are no taxicabs on the stand.

4. Shall not allow more than two passengers in the front seat of his taxicab and shall not allow more than five passengers in his taxicab at any one time.

5. Shall not knowingly operate a taxicab equipped with a faulty or inaccurate taximeter or a taximeter that shows signs of having been tampered with.

6. Shall not operate a taxicab in which the taximeter is not sufficiently illuminated or the face of the taximeter is obscured to the extent that the entire fare recording device cannot be easily seen by the passenger.

7. Shall not operate a taxicab in which the taximeter does not have a properly attached seal as affixed by the Authority.

8. Shall not operate a taxicab that does not have properly affixed a valid “TX” plate as issued by the Authority.

9. Shall not operate a taxicab if the driver is suffering from any illness or physical or mental disorder that may impair his ability to operate a taxicab safely.

10. Shall not operate a taxicab while taking drugs that may impair his ability to operate a taxicab safely.

11. Shall keep a complete and accurate trip sheet as prescribed in NAC 706.3747 *in his possession*.

12. Shall not display or distribute any advertising within or on his taxicab that has not been authorized by his employer.

13. Shall not operate a taxicab without having in his possession a valid certificate from a licensed physician which demonstrates that he is physically qualified to operate a taxicab or commercial motor vehicle in accordance with 49 C.F.R. § 391.43 as adopted by NAC 706.247.